



**The Commonwealth of Massachusetts**

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**DEPARTMENT OF  
TELECOMMUNICATIONS AND ENERGY**

D.T.E. 06-48

May 19, 2006

Investigation by the Department of Telecommunications and Energy, on its own motion, into compliance with the gate box maintenance and improvement requirements of G.L. c. 164, § 116B, by gas companies and municipal gas departments established under the provisions of Chapter 164.

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ORDER OPENING AN INVESTIGATION INTO COMPLIANCE  
WITH G.L. c. 164, § 116B

I. INTRODUCTION

Effective April 1, 2003, the General Laws were amended with the addition of chapter 164, § 116B (“Section 116 B”),<sup>1</sup> which reads:

[w]henver the commonwealth or a city or town undertakes the repair of streets, roads or sidewalks the appropriate gas company shall provide for the maintenance and improvements of its gate boxes located in the streets, roads or sidewalks to be repaired, so that the gate boxes are more easily and immediately accessible. A gas company may apply for funds under [C]hapter 90 to assist in paying the costs of the maintenance and improvements.

On September 18, 2003, the Director of the Pipeline Engineering and Safety Division (“Pipeline Division”) of the Department of Telecommunications of Energy (“Department”) issued a directive to all gas companies and municipal operators established under the provisions of Chapter 164 (“operators”)<sup>2</sup> to incorporate in their Operating and Maintenance (“O&M”) Plan “a program to prevent valves from becoming inaccessible when street restoration projects are undertaken by the state or municipalities,” consistent with the requirements of Section 116B.<sup>3</sup>

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<sup>1</sup> St. 2002, c. 501.

<sup>2</sup> The Department oversees the safety regulation of the storage, transportation, and distribution of natural gas and related facilities within the Commonwealth's jurisdiction pursuant to G.L. c. 164, § 105A, 49 U.S.C. §§ 60101-60125, and an annually-renewed federal natural gas pipeline safety program certification agreement. The operators of gas facilities in Massachusetts are: Bay State Gas Company; The Berkshire Gas Company; Blackstone Gas Company; Fitchburg Gas and Electric Light Company d/b/a Unitol; Holyoke Gas and Electric Department; KeySpan Energy Delivery New England; Middleborough Gas and Electric Department; New England Gas Company; NSTAR Gas Company; Wakefield Municipal Gas and Light Department; Westfield Gas & Electric Light Department.

<sup>3</sup> All operators are required to "prepare and follow for each pipeline, a manual of written  
(continued...)

On October 12, 2004, the Department issued a directive to all operators to file reports with the Department on their compliance with Section 116B. Among other things, the gas companies reported to the Department: (1) the number of valve boxes in their service territories that were raised as required by Section 116B; (2) how they determined whether valve boxes were “easily and immediately accessible;” and (3) what methods are used to ascertain when street repair work will be done by a municipality or the state.

On October 3, 2005, the Pipeline Division issued to all operators an opinion letter interpreting the term “gate box” to be consistent with the definition of “distribution valves” in 49 C.F.R. Part 192 (“Part 192”), § 192.181. Specifically, the Pipeline Division noted that a gate box is a device installed on a gas main to permit shut-off in the event of an emergency and its location and accessibility must be readily ascertainable. In addition, the Pipeline Division interpreted “easily and immediately accessible,” as it applies to Section 116B, to mean that distribution valves used for emergency purposes must be accessible without having to remove paving material. Finally, the Pipeline Division directed all operators to review their procedures to verify compliance with Section 116B and the Pipeline Division interpretations.

## II. DISCUSSION

Having reviewed the information provided to the Department by the operators in accordance with our previous directives, the Department notes that there are differences in how

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<sup>3</sup> (...continued)  
procedures for conducting operations and maintenance activities and for emergency response” ( e.g., “O&M Plan”). 49 C.F.R. Part 192, § 192.605(a). Operators are required to “periodically review the work done by operator personnel to determine the effectiveness, and adequacy of the procedures used in normal operation and maintenance and modifying the procedures when deficiencies are found.” Id. § 192.605(b)(8).

operators comply with the gate box maintenance and improvement requirements of Section 116B. Specifically, there are differences in how operators define “easily and immediately accessible” and in policies to collect necessary information from municipalities as to road paving schedules. Accordingly, pursuant to its general supervisory powers over the safety of operations of gas distribution systems established under Chapter 164, and pursuant to pipeline safety authority delegated to it by the United States Department of Transportation.

G.L. c. 164, § 105A, the Department opens an investigation designed to establish standards by which operators comply with the Section 116B mandates. This investigation will seek a showing on the part of operators that issues of gate box maintenance and improvement are properly addressed.

Accordingly, we direct all operators to file with the Department, no later than June 6, 2006, the following.

- The relevant portion the operator’s O&M Plan that ensures compliance with Section 116B;
- An excel spreadsheet of service territory streets that were paved in 2005, and the date that the gate boxes were made “easily and immediately accessible;”
- The relevant portion of the operator’s O&M Plan that delineates policies concerning how operator employees collect data to ensure compliance with Section 116B;
- All relevant evidence that operators are in compliance with Section 116B;
- All relevant evidence that demonstrates that all valves on its mains and all curb valves on its service lines are immediately and readily accessible. Requirements applicable to

valves on mains are described in Part 192, § 192.181. Requirements for service line valves are described in Part 192, § 192.365 and in 220 C.M.R. § 101.06(14).

The Department will conduct a public hearing and procedural conference at its Boston offices on June 15, 2006 at 10 a.m. Additionally, the Department will accept written comments until the close of business on June 29, 2006, submitted by interested persons. In particular, the Department encourages state and municipal public works departments to file written comments in this docket.

All written documents must be filed with the Department of Telecommunications and Energy, One South Station, Boston, Massachusetts 02110, as follows: (a) an original with Mary L. Cottrell, Secretary; (b) two (2) copies with William H. Stevens, Assistant General Counsel, Pipeline Engineering and Safety Division; and (c) two (2) copies with Christopher Bourne, Director, Pipeline Engineering and Safety Division.

All written documents should also be submitted to the Department in electronic format using one of the following methods: (1) by e-mail attachment to [dte.efiling@state.ma.us](mailto:dte.efiling@state.ma.us) and to [william.stevens@state.ma.us](mailto:william.stevens@state.ma.us); or (2) on a 3.5" disk, IBM-compatible format. The text of the e-mail or the disk label must specify: (1) the docket number of the proceeding (D.T.E. 06-48), (2) name of the person or company submitting the filing, and (3) a brief descriptive title of the document (e.g., "O&M Plan"). The electronic filing should also include the name, title and phone number of a person to contact in the event of questions about the filing. Text responses should be created in either Corel WordPerfect, Microsoft Word, or as an Adobe-compatible PDF file. Data or spreadsheet responses should be compatible with Microsoft Excel. Documents submitted in electronic format will be posted on the Department's Website, <http://www.mass.gov/dte>.

The Secretary of the Department is hereby directed to publish notice of this proceeding and of its initial hearing date in the Boston Herald and The Boston Globe, Berkshire Eagle, Springfield Union-News, Worcester Telegram and Gazette, New Bedford Standard Times, Patriot Ledger, Lawrence Eagle Tribune, and Cape Cod Times not later than two weeks prior to the date of the hearing. Also pursuant to this Order, the Secretary is directed to transmit copies of the Department's notice of investigation and public hearing by first class mail to the attention of counsel for each gas company, the mayor or chairman of the board of selectmen and the director of the public works department of each municipality in the Commonwealth served by a gas company or a municipal gas department, to the head of each municipal gas department, to the head of the Massachusetts Highway Department, and to the Massachusetts Municipal Association.

### III. ORDER

Accordingly, the Department

VOTES: To open an investigation into compliance with G.L. c. 164, § 116B by gas companies and municipal gas departments established under the provisions of G.L. Chapter 164; and

ORDERS: That the Secretary of the Department establish a date for a public hearing and procedural conference, to be held not later than June 15, 2006, and to publish and issue notice in accordance with the terms of this Order; and it is

FURTHER ORDERED: That Bay State Gas Company; The Berkshire Gas Company; Blackstone Gas Company; Fitchburg Gas and Electric Light Company d/b/a Unitil; Holyoke Gas and Electric Department; KeySpan Energy Delivery New England; Middleborough Gas and Electric Department; New England Gas Company, NSTAR Gas Company; Wakefield Municipal Gas and Light Department; Westfield Gas & Electric Light Department follow all other directives contained in this Order.

By Order of the Department,

\_\_\_\_\_/s/\_\_\_\_\_  
Judith F. Judson, Chairman

\_\_\_\_\_/s/\_\_\_\_\_  
James Connelly, Commissioner

\_\_\_\_\_/s/\_\_\_\_\_  
W. Robert Keating, Commissioner

\_\_\_\_\_/s/\_\_\_\_\_  
Paul G. Afonso, Commissioner

\_\_\_\_\_/s/\_\_\_\_\_  
Brian P. Golden, Commissioner